THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.29394 of 1995

ORAL ORDER:

This Writ Petition is directed against an Award dated 4-2-1995 passed in I.D.No.181 of 1991 on the file of the Industrial Tribunal-cum-Labour Court at Godavarikhani.

It appears that the petitioner was appointed as a Conductor in A.P. State Road Transport Corporation by an Order dated 7-3-1984 and was attached to the Bus Depot at Godavarikhani. While so, on 25-4-1984, the services of the petitioner were terminated for misconduct of cash and ticket irregularities. Aggrieved by the same, petitioner filed a suit in O.S.No.229 of 1984 before the learned District Munsif, Sultanabad and in view of the interim orders passed on 5-5-1984 he was reinstated into service. However, the said suit was dismissed on 30-5-1984. Immediately, thereafter, on 13-6-1984 he had committed similar misconduct of cash and ticket irregularities and his services were terminated on 19-6-1984. Thereafter also, he filed a suit in O.S.No.340 of 1984 and that was dismissed. Having not satisfied, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act'). Before the Labour Court, none was examined on behalf of the petitioner and no documents were also marked. However, on behalf of the respondent-management, R.Ws.1 and 2 were examined and Exs.M1 to M14 were marked. After a detailed consideration of entire evidence on record, the Tribunal came to the conclusion that though the petitioner committed certain irregularities as per the record and evidence, but the punishment of removal from service is harsh. Therefore, while exercising its powers under Section 11-A of the Act directed reinstatement of the petitioner

on certain conditions including payment of an amount of Rs.3,000/- by the petitioner as non-refundable deposit, even after retirement. Apart from that, from the date of reinstatement till completion of one year, petitioner-workman had to work only on 80% of gross salary. Aggrieved by the same, the present Writ Petition is filed.

Sri H. Srinivasa Rao, learned counsel for the petitioner, strenuously contended that no procedure known to law has been followed by the respondent-management in conducting enquiry and removing the petitioner from service. Of course, the Labour Court though directed reinstatement of the petitioner, failed to award back wages and the past service and further imposing a condition of remitting non-refundable deposit of Rs.3,000/- and directing the petitioner to work for one year on 80% of the gross salary, in the facts and circumstances, is arbitrary and illegal. Petitioner is entitled for back wages as well as continuity of service, since the very termination order passed by the Management on 19-6-1984 is arbitrary and illegal.

Per contra, learned Standing Counsel for the respondent-APSRTC supported the Award passed by the Tribunal and contended that in the facts and circumstances of the case, the Tribunal itself has taken a lenient view of the matter and directed reinstatement of the petitioner with certain conditions; therefore, no interference can be made with such Award, by this Court, under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

At the outset, I am of the opinion that the Award passed by the Labour Court cannot be said to be either arbitrary or illegal, in the facts and circumstances, except in directing to make non-refundable deposit

of Rs.3,000/-. It is interesting to notice that the petitioner was appointed as a Conductor on 7-3-1984 and immediately thereafter, his services were terminated on 25-4-1984, since he was involved in misconduct of cash and ticket irregularities. He approached the Civil Court and obtained an interim order; therefore, he was reinstated. The suit was dismissed on 30-5-1984 and within a period of 15 days thereof, he committed another misconduct on 13-6-1984; therefore, his services were again terminated on 19-6-1984. Of course, what the learned counsel for the petitioner says that there was no proper enquiry conducted into the matter before passing the impugned Order of termination seems to be correct, for the reason that the Labour Court permitted both the parties to lead evidence. But, that itself does not mean that the petitioner is entitled for all the reliefs claimed by him.

The evidence of M.Ws.1 and 2 coupled with Ex.M2 – statement of passengers - and Exs.M3 to M13 would categorically show that the petitioner was involved in a misconduct of cash and ticket irregularities twice within a period of two months of his total service of 3 months. Further, the I.D. was raised in the year 1991 i.e. after more than 7 years of the termination order. Under these circumstances, I am of the opinion that the Tribunal has, in fact, taken a lenient view of the matter and directed reinstatement of the petitioner without back wages and without continuity of service, which cannot be said to be either arbitrary or illegal. However, I am of the opinion that directing to remit an amount of Rs.3,000/- as non-refundable deposit is arbitrary and illegal and the same is liable to be set aside. Respondent-Management is directed to refund the said amount of Rs.3,000/- to the petitioner forthwith. Petitioner, under any circumstances, is not entitled for the relief, such as, back wages and continuity of service from 7-3-1984 till the date of reinstatement in the year 1995 i.e. he is not entitled for the

continuity of service. Further, he has not worked even for 3 months continuously before his termination. The facts and circumstances of the case do not inspire the confidence of the Court to grant the relief of continuity of service and back wages.

In the result, the Writ Petition is disposed of directing the respondent-management to refund an amount of Rs.3,000/-, which was directed to be remitted as a non-refundable deposit, to the petitioner, forthwith. The rest of the Award of the Tribunal is confirmed. There shall be no order as to costs.

24-10-2006

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